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Lori Berenson Sentenced 20

by LADB Staff
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Lori Berenson, the US citizen who was sentenced to life in prison for treason by a Peruvian military court in January 1996, was found guilty of "terrorist collaboration" at her retrial in a civilian court and given a 20-year sentence. Although they absolved her of the charge that she was a militant member of the Movimiento Revolucionario Tupac Amaru (MRTA) guerrilla organization, the judges found that Berenson was more than a "mere spectator" in the group's plans to take over the Peruvian Congress.

In her statement to the Court before the verdict, Berenson said, "I am not a terrorist and I condemn what terrorism is." She said she had been tried for her political ideas and her support of the poor in Peru. "I consider that neither the military nor civilian courts have proved my participation in criminal acts," she said. "I am not a terrorist and if there has been political violence in Peru, then it is essential to identify those responsible for a social situation that generates violence, because it is related to the institutionalized violence of hunger and misery. I didn't come to Peru to harm anyone. My actions were public and honest, and it is not a crime to worry about poverty and injustice in the world."

Berenson accused of helping in plot to take over Congress Berenson, a former Massachusetts Institute of Technology student, was arrested Nov. 30, 1995, on a bus in Lima. She was accused of participating in the thwarted MRTA plan to take over the Congress and to take hostages and exchange them for guerrilla prisoners. In her first trial only six weeks after her arrest, a secret military court found Berenson guilty of being a rebel leader and sentenced her to life in prison (see NotiSur, 1996-01-19). For the first two years, she was held at the Yanamayo prison in Puno, 3,900 meters above sea level. The cold and harsh conditions caused her various health problems, including poor eyesight, swollen joints, and stomach problems. She was moved to Socabaya prison near the southern city of Arequipa in October 1998 and to Lima last year.

In August 2000, Peru's top military court announced that "new evidence revealed she did not hold a leadership position and, as such, said sentence [life imprisonment] was not correct." That paved the way for the new trial on the lesser charge of terrorist collaboration (see NotiSur, 2000-09-22).

Most Peruvians have little sympathy for Berenson and assume she was involved with the guerrillas. One basis for that assumption was her angry pretrial declaration to the media in 1996. When brought before the press, she shouted, "There are no criminal terrorists in the MRTA. It is a revolutionary movement."

"Nobody believes this government or the next will free Lori Berenson," said political analyst Mirko Lauer in April. "Everyone sees this as a case of raw US pressure and people have paid little attention to whether due process has taken place. Most people hate the MRTA and also feel the woman is sufficiently involved with the MRTA that the case is clear enough she is guilty."

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Convicted rebels give conflicting testimony

The new trial began March 20. In the retrial, as in the first trial, prosecutors alleged Berenson rented a house in 1995 as a hideout for the rebels and posed as a journalist with the wife of the group's top commander to enter the Congress to collect information. Jose Luis Sandoval, Berenson's lawyer, said the police violated his client's rights by covertly videotaping her conversations with a previous lawyer before the 1996 conviction, and he argued that most of the evidence introduced in the earlier trial should have been thrown out as tainted.

One of the witnesses against Berenson was Panamanian Pacifico Castrellon, who was convicted of terrorism and is awaiting a new trial that he hopes will reduce his sentence. Castrellon said he met Berenson and they decided to travel together while she was a tourist in Panama. He said they first went to Quito, Ecuador, where Berenson introduced him to a man who called himself Carlos but was Nestor Cerpa Cartolini, a top MRTA commander. He described Berenson as the go-between for Cerpa. Once in Lima, Castrellon said, he and Berenson rented a house for the MRTA, and he said she knew about the plot to take over Congress. However, another MRTA leader, Miguel Rincon, testified that Berenson was unaware of the plot.

Several other MRTA rebels testified that Castrellon was a longtime collaborator and that Berenson did not know either of the plot to take over the Congress or their true identities. Some testimony contradicted what they said six years ago, but they say they were under duress during the initial interrogations. The prosecution's evidence centered on three points: Berenson rented the safe house where the police arrested Rincon, then number three in the MRTA, in 1995; the photographer she worked with was Nancy Gilvonio, wife of MRTA leader Nestor Cerpa who was killed during the 1997 hostage crisis (see NotiSur, 1997-04-25); and her handwriting was said to match documents relating to the congressional takeover and other MRTA actions. Berenson said she had sublet the house with no knowledge that the MRTA was involved, she did not know Gilvonio belonged to the MRTA, and the handwriting was not hers.

One piece of circumstantial evidence linking Berenson to the MRTA was that when the group, led by Cerpa, took hundreds of hostages at the Japanese ambassador's residence in December 1996, Berenson's name was on a list of prisoners whose freedom they demanded in return for the hostages. Lawyer says judge is biased In early May, Sandoval asked presiding Judge Marcos Ibazeta to remove himself from the case, charging that he was biased and linked to Peru's ex-spy chief Vladimiro Montesinos. Sandoval submitted the transcript of a secretly filmed videotape showing Montesinos referring to Ibazeta as a member of "the team." Sandoval also argued that two 1999 newspaper reports quote the judge calling possible appeals for retrials of Berenson and several guerrilla leaders "irrational."

On May 5, the judges refused to remove Ibazeta. They said Sandoval should have made his motion within the first three days of the trial. Ibazeta did not address the allegation of bias. Coletta Youngers of the human rights organization Washington Office on Latin America (WOLA) said that, while Berenson's second trial was fairer than the first, Peru's anti-terrorist laws do little to protect defendants' rights. Conviction requires "very little proof," Youngers said, and Berenson "is not getting what most Americans would consider a free and fair trial." Verdict will be appealed

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In his closing statement, Sandoval argued that Berenson deserved acquittal because her case was manipulated by Montesinos. He referred to videos in which Montesinos said Berenson's retrial in a civilian court could improve relations with the US administration. But the state called for a guilty verdict.

"She came here with a specific mission...as a collaborator with the MRTA," said state attorney Mario Cavagnaro in his concluding arguments. The judges agreed. Besides the 20-year sentence, the court fined Berenson US$28,400 and ruled that she should be expelled from Peru once she served her time. After hearing the verdict, Berenson called the sentence unjust and her lawyer said they would appeal to the Corte Suprema. She is also pursuing her case with the Inter-American Court of Human Rights (IACHR). If the high court upholds the sentence, Berenson could request a transfer to a US prison, although she has said she would not do this. The appeal is expected to take three to four months and the court can confirm the sentence, reduce it, or acquit her but not increase her sentence.

"Personally I think the verdict will be confirmed," said Eduardo Dargent of the Comision Andina de Juristas (CAJ). "It would be difficult for the court to modify the sentence." Javier Valle Riesta, a constitutional expert and former prime minister, said Berenson's chances of being freed after the high court deliberation were slim. "I think the sentence will be confirmed," he said.

Peru's Justice Minister Diego Garcia Sayan said the interim government of Valentin Paniagua would uphold the court's decision, making a presidential pardon unlikely. President-elect Alejandro Toledo also said he would respect the verdict. But US representatives asked him to consider clemency for Berenson during his meeting with the House International Relations Committee on his recent trip to the US. After that meeting, Toledo told reporters, "We will consider that." But he added that he would not interfere in a case that is still before the courts.

Both the White House and the State Department told Toledo that the Berenson case will remain a "permanent" issue in ties with the US. "There's going to be strong US pressure to get the sentence reduced and pressure from public opinion here to maintain it," Dargent said. "We'll see who wins out."

-- End --

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